

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed September 10, 2009. At the time of the Office Action, Claims 1-8 and 10-61 were pending in the Application and stand rejected. Applicant amended certain Claims to expedite this prosecution. The amendments to the claims are not the result of any prior art reference and, thus, does not narrow the scope of the claim. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Claim Objections

The Examiner objected to Claims 1, 11, 19, 27, 35, 44, 49, 53, and 58 because of suggested informalities. Applicant has amended these claims to address the Examiner's concern.

Section 103 Rejection

The Examiner rejects Claims 1-5, 11-12, 16, 18-20, 24, 26-28, 32, 34-36, 40, 42-47, 49-50, 52-56, 58-59, and 61 as being unpatentable by Veeneman et al. (hereinafter "Veeneman") in view of U.S. Patent No. 7,133,420 issued to Chang et al. (hereinafter "Chang"). The Examiner further rejects various Claims under 35 U.S.C. §103(a) as being unpatentable over several references, including U.S. Patent No. 5,946,313 issued to Allan et al. (hereinafter "Allan") and U.S. Patent No. 6,560,242 issued to Hamedani et al. (hereinafter "Hamedani").

Applicant respectfully reminds the Examiner that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second,

there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.¹

It is respectfully submitted that the rejected claims are patentable over the art of record based on at least the third criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each claim limitation of the Independent Claims. For example, no reference of record discloses "... a first precedence level is used for an unspecified bit rate (UBR), a second precedence level is used for video data, and a third precedence level is used for voice data."

First, no reference assigns precedence levels for *specific types of information*. Second, no reference includes a precedence level for an unspecified bit rate (UBR). Third, in no event does any reference include designations for three levels of precedence: much less precedence levels that include ***video, voice, and an unspecified bit rate***, as is outlined by Independent Claim 1. All of these missing limitations are provided for in Independent Claim 1, but no reference of record includes such elements. Applicant has reviewed the cited references and finds nothing that would be relevant to these teachings.

For at least these reasons, Independent Claim 1 is allowable over any cited reference, or combination of references. The other Independent Claims recite limitations similar, but not identical, to those recited in Independent Claim 1. Therefore, these claims are also allowable, for example, for the same reasons as identified above. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

¹ See M.P.E.P. §2142-43.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

The Request for Continued Examination fee for \$810 is being paid concurrently herewith via the Electronic Filing System (EFS) by way of Deposit Account No. 50-4889 authorization. No additional fees are believed due. However, please apply any other charges or credit any overpayment to Deposit Account No. 50-4889 of PATENT CAPITAL GROUP, referencing the attorney docket number referenced above.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at (214) 823-1241.

Respectfully submitted,

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